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97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-376

PROMOTING THE DEVELOPMENT OF NATIVE AMERICAN CULTURE AND ART

APRIL 29 (legislative day, APRIL 13, 1982.—Ordered to be printed

Mr. COHEN, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 792]

The Select Committee on Indian Affairs, to which was referred the bill (S. 792) to promote the development of Native American culture and art, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

The amendments are as follows:

On page 1, line 7, strike out "American Indian" and insert in lieu thereof "Native American".

On page 2, line 1, strike out "American Indian" and insert in lieu thereof "Native American".

On page 2, line 8, strike out "Indian" and insert in lieu thereof "Native American".

On page 2, line 9, strike out "Indian" and insert in lieu thereof "Native American".

On page 2, line 13, strike out "Indian" and insert in lieu thereof "Native American".

On page 2, line 14, strike out "Indian" and insert in lieu thereof "Native American".

On page 2, line 17, strike out "Indian" and insert in lieu thereof "Native American".

On page 2, line 21, strike out "Indian" and insert in lieu thereof "Native American".

On page 3, line 1, strike out "Indian" and insert in lieu thereof "Native American".

On page 3, line 9, strike out the words: "Indian" or".

On page 4, line 13, strike out "Indian" and insert in lieu thereof "Native American".

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On page 9, line 18, strike out "inter-American Indian" and insert in lieu thereof "inter-Native American".

On page 9, line 19, beginning with "Indian" strike out through the end of line 20 and insert in lieu thereof "Native American crafts, promotion of Native American art, exhibits and shows; and"

On page 9, line 21, strike out "Indian" and insert in lieu thereof "Native American".

On page 9, line 24, strike out "Indian" and insert in lieu thereof "Native American".

On page 9, line 25, strike out "Indian" and insert in lieu thereof "Native American".

On page 10, line 4, strike out "Indian" and insert in lieu thereof "Native American".

On page 10, line 7, strike out "Indian" and insert in lieu thereof "Native American".

On page 10, line 9, strike out "Indian" and insert in lieu thereof "Native American".

On page 10, line 11, strike out "Indian" and insert in lieu thereof "Native American".

On page 12, strike lines 3 through 10 and insert in lieu thereof the following:

"HEADQUARTERS; RESOURCE CENTERS

SEC. 10. (a) The Board shall consult with the Indian tribes and various organizations of Native Americans regarding a suitable site for the headquarters of the Institute. After such consultation is completed, an existing facility owned by the United States shall be designated by the Board, with the approval of the head of the Department or Agency having jurisdiction over such facility, as the headquarters of the Institute. The head of such Department or Agency is authorized to transfer the real property and any improvements thereon which comprise such facility to the Institute.

(b) The Board is authorized to establish branch resource centers at various locations within the United States. The location of each resource center shall be determined by the Board after consultation with the Indian tribes and various organizations of Native Americans."

On page 13, line 11, delete "1981," and insert in lieu thereof "1982,".

PURPOSE

The purpose of the bill is to combine the functions of the Institute of American Indian Arts in Santa Fe, New Mexico, and the Indian Arts and Crafts Board within a new national Institute of Native American Culture and Arts Development. In addition, the bill provides for expanding the Institute to offer new features, including (1) a Center for Culture and Art Studies, which will include Departments of Traditional Arts and Sciences, Visual Arts, Performing Arts, Language and Literature; (2) a Center for Native American Scholars, which will administer research and fellowship programs as well as publications; (3) a Center for Cultural Exchange, which will coordinate the United States' participation in the Inter-Native

American Program and will promote the marketing and exhibition of Native American arts; and (4) a Museum of Native American Arts.

Another purpose of S. 792 is to remove from the BIA the responsibility for operating the Arts Institute. It currently administers the programs at the Institute and its record has not been impressive.

The Institute described in S. 792 would not be under the jurisdiction of any Federal agency. Instead, an eighteen member Board of Trustees would be responsible for the Institute's administration. Twelve of the members appointed by the President of the United States would be Native Americans widely recognized in the field of Native American art and culture. Board membership would include the Secretaries of the Department of the Interior, Department of Education and the Smithsonian, the Chairmen of the National Endowments for the Arts and the Humanities, and the Librarian of Congress.

BACKGROUND

This legislation was arrived at as a possible solution to the problems which beset the Institute of American Indian Arts in Santa Fe, New Mexico. It is the only national junior college offering an education to all tribes in the field of culture and art of the Native American. It was established in 1962, at the site of an industrial vocational school which was originally established for "Pueblo and other Indians" in 1890.

An audit conducted in June of 1979 by the Inspector General of the Department of the Interior reported that the Institute was severely underutilized. The enrollment was down to 140 from a high of 320 in 1976–77 and the cost per pupil was $13,096—almost double the comparable figures for the BIA's other post secondary schools.

On March 1, 1979, the All Indian Pueblo Council entered the picture when it applied to contract with the BIA for operation of the Institute's campus. The All Indian Pueblo Council intended to use the facilities to house its Albuquerque Indian School, due to the fact that many of the buildings on that campus were condemned. The All Indian Pueblo Council believed that the school was established in 1890 for Pueblos and should return to its original purpose. The Pueblo Council was denied the contract because of a provision in the Indian Self-Determination Act which precluded the BIA's consideration of the contract application without the approval of each tribe served by the Institute of American Indian Arts.

The BIA, under the direction of Assistant Secretary Forrest Gerard, was sensitive to the needs of the Pueblo students. On July 11, 1979, Gerard issued a statement that grades 10 through 12 of the Albuquerque Indian School would be transferred to Santa Fe to share the campus with the Institute students. At the same time, he announced that he would appoint a review team to study the future of the Institute of American Indian Arts. This was facilitated with the support of the New Mexico Congressional delegation. The BIA reported that it was considering transferring the functions of the Institute of American Indian Arts to Haskell Junior College in Kansas, so that the Pueblo Council would eventually have access to the entire Institute campus.

By this time, many groups of Indians and non-Indians nationwide, became increasingly aware that the fate of the Institute of American Indian Arts might be decided quickly and not in the best interests of the Institute itself. Congressman Sidney Yates chaired a House Interior Appropriations Subcommittee hearing on the status of the Institute on September 6, 1979, at which time support for the continued existence of the Institute at Santa Fe was voiced from a wide range of witnesses. Yates was wary of the BIA's commitment to the Institute and its ability to provide a quality education for the students.

During 1979–80 and 1980–81 school years, the facility in Santa Fe was shared by the 10th, 11th and 12th grade Pueblo students and the Arts students.

Shortly after the election in November, 1980, the Pueblo leadership made a concerted effort to convince the Reagan Interior Department transition team and later Secretary Watt to transfer the entire IAIA facility to the Pueblos for use as a high school including grades 7 through 12.

Finally, on June 24, 1981, the Pueblos were successful and Secretary Watt announced that the Institute of American Indian Art would be moved for the 1981–82 school year to the nearby campus of the College of Santa Fe. Secretary Watt approved a 1 year contract with the College of Santa Fe to allow IAIA to use the college facilities. This is, according to an Interior Department new release, a short-term solution. The "long-term future of the school" will be decided after "seeking advice of knowledgeable artists, education administrators, tribal leaders and others."

LEGISLATIVE HISTORY

S. 792 was introduced by Senators Melcher, Burdick, Hatfield, Inouye, Goldwater, Matsunaga, Baucus, Domenici and DeConcini on March 24, 1981. As of now, no companion measure has been introduced in the House.

A similar bill (S. 2166) was introduced in the 96th Congress in the Senate and in the House of Representatives (H.R. 6266). The Select Committee on Indian Affairs held two hearings on S. 2166: in Santa Fe, New Mexico, on April 14, 1980 and in Washington, D.C., on July 29, 1980. The hearings brought to light a number of issues which required clarification before the Committee could act on the bill. However, due to the Committee's busy agenda, final action on S. 2166 was postponed.

S. 792 incorporates many of the suggestions made by Indian, as well as non-Indian, witnesses during the Committee's hearings in 1980; including: (1) postponing action on the location of the Institute until a decision is reached by the majority of the Board; (2) a clearer definition of Native American and Indian tribe; (3) a greater emphasis on coordination rather than centralization of the Federal effort to promote the Native American art and culture; (4) majority Native American representation on the Board; and (5) reliance on Native American art and culture programs in the development of the Institute's programs and policies.

The Committee held a hearing on S. 792 on July 29, 1981.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Select Committee on Indian Affairs, by a poll of its members on February 25, 1982, 4 in favor and 0 opposed, recommends that the Senate pass S. 792 as amended.

COMMITTEE AMENDMENTS

The Select Committee on Indian Affairs adopted several technical amendments, including changing the word "Indian" to "Native American" in appropriate places in the bill and changing the date of authorization for appropriations from fiscal year 1981 to fiscal year 1982. The Committee has also approved an amendment to allow the Institute to move to any existing Federal facility. As introduced, the bill limited the facility to one currently under the jurisdiction of the Department of the Interior. The amendment also provides for the establishment of "branch resource centers at various locations within the United States." This would permit a larger measure of input into the Institute's program from the various Indian tribes.

SECTION-BY-SECTION ANALYSIS

Sec. 1 is the enacting clause which entitles the Act as the "Native American Culture and Art Development Act."

Sec. 2 describes the importance of Native American Art and Culture and states that the Federal government, in an effort to support it, desires to establish a national Institute of Native American Culture and Arts Development.

Sec. 3 provides definitions of "Native American art and culture", "Institute", "Native American", "Indian tribe" and "Native Hawaiian".

Sec. 4 establishes a Board of Trustees for the Institute.

Sec. 5 discusses the composition of the Board and describes its functions.

Sec. 6 describes the administration of the Institute.

Sec. 7 provides the Board with the authority to establish within the Institute, a Center for Culture and Art Studies, a Center for Native American Scholars, a Center for Cultural Exchange, a Museum of Native American Arts and any other programs the Board deems necessary to preserve, support, revitalize and disseminate Indian art and culture.

Sec. 8 states that the functions of the Institute of American Indian Arts and of the Indian Arts and Crafts Board are transferred to the new Institute.

Sec. 9 provides that the President of the Institute shall submit an annual report to the Board concerning the administration of the Institute.

Sec. 10 provides for the acquisition of an existing facility to house the Institute and the establishment of satellite resource centers.

Sec. 11 establishes an Advisory Committee composed of students and parents.

Sec. 12 discusses compliance with other acts.

Sec. 13 authorizes $4,000,000 for fiscal year 1983 and such sums as may be necessary for each fiscal year thereafter to carry out the purpose

of the Act. During fiscal year 1982, a total of $2,700,000 has been appropriated for the operation and maintenance of the Arts and Crafts Board and the Institute of American Indian Arts.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 792, as amended, as provided by the Congressional Budget Office, is outlined below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., February 24, 1982.

Hon. WILLIAM S. COHEN,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 792, the Native American Culture and Art Development Act.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

FEBRUARY 24, 1982.

1. Bill number: S. 792.
2. Bill title: Native American Culture and Art Development Act.
3. Bill status: As amended and ordered reported by the Senate Select Committee on Indian Affairs, February 11, 1982.
4. Bill purpose: S. 792 would combine the functions of the Institute of American Indian Arts in Santa Fe, New Mexico, and the Indian Arts and Crafts Board within a new national Institute of Native American Culture and Arts Development. The bill provides for expanding the Institute's programs for the preservation and support of Indian art and culture. The bill would also remove from the BIA the responsibility for operating the Arts Institute, and would place it under the control of an eighteen-member Board of Trustees.
5. Cost estimate:

	Millions
Estimated authorization level:	
Fiscal year:	
1983	$1.3
1984	1.4
1985	1.5
1986	1.7
1987	1.9
Estimated outlays:	
Fiscal year:	
1983	1.0
1984	1.3
1985	1.4
1986	1.5
1987	1.7

The costs of this bill fall within budget functions 450 and 500.

6. Basis of estimate: For the purpose of this estimate it has been assumed that the full amounts authorized for fiscal year 1983 will be appropriated and that an equivalent amount, adjusted for inflation, will be appropriated in each succeeding year. These funds are assumed to be spent at rates equal to those of similar Indian programs.

Since the bill transfers to the new Institute of Native American Culture and Arts Development all of the functions, assets, and liabilities of the Institute of American Indian Arts and the Indian Arts and Crafts Board, CBO has assumed that resources that would otherwise be appropriated for these organizations would be used to offset the costs of the new institute. Therefore, the net cost of the new institute in fiscal year 1983 is estimated to be $1.3 million ($4.0 million less the $2.7 million estimated to be needed for the two organizations to be transferred). The same process has been used to estimate costs in all succeeding years.

7 Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Lin Lloyd.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 792 will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The pertinent communication received by the Committee from the Department of the Interior is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 28, 1981.

Hon. WILLIAM S. COHEN,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the views of this Department on S. 792, a bill "To promote the development of Native American culture and art."

We strongly recommend that the bill not be enacted.

S. 792, cited as the "Native American Culture and Art Development Act", would establish the Institute of Native American Culture and Arts Development under the direction of an 18-member Board of Trustees, 12 of whom would be Native Americans, "widely recognized in the field of Indian art and culture." The six other trustees would be: Secretary of the Interior, Secretary of Education, Secretary of the Smithsonian Institution, Chairman of the National Endowment of the Arts, Chairman of the National Endowment of the Humanities, and the Librarian of Congress.

The Board of Trustees would be authorized to: formulate the policy of the Institute, make by-laws and regulations, obtain the services of experts and consultants, solicit and dispose of gifts, enter into contracts with Federal, State or local governments, and acquired real property.

S. 792 further provides for the appointment of a President of the Institute at the GS–18 level, and for the establishment within the Institute of a center for Culture and Art Studies, a Center for Native American Scholars, a Center for Cultural Exchange, a Museum of Indian Arts, and such other centers and programs which the Board deems appropriate.

The bill also would transfer the functions of the Institute of American Indian Arts and the Indian Arts and Crafts Board, now under the auspices of this Department, to the newly created Institute.

Finally, the bill would authorize an initial appropriation of $4 million for the fiscal year beginning October 1, 1981, and for each fiscal year thereafter such sums as may be necessary to carry out the purposes of the Act.

We are opposed to enactment of S. 792 for the reasons set out below:

The Department of the Interior has historically been the primary administrator of the Federal-Indian trust relationship, but S. 792 would create an Institute of Native American Culture and Arts Development outside the Department. Even though there is a need for the preservation and encouragement of American Indian art and culture, we believe that the creation of such an outside Institute would be unnecessary and redundant. Given the experience and expertise that the Bureau of Indian Affairs and the Office of Indian Education have acquired over the years, the new independent Institute and its mission would suffer without the benefit of that experience and expertise.

We would oppose the removal of the Indian Arts and Crafts Board and the Institute of American Indians Arts from this Department. Both entities have achieved a large measure of success as a part of the Department and we feel very strongly that they should remain here.

As part of the Department, the Commissioners and staff of the Indian Arts and Crafts Board have worked effectively to increase Native American participation and control in the growing Native American fine arts and handcrafts business, and to enable Native Americans to realize the full potential for employment and income from this demand for their creative work. The essential role of the Board has been to encourage production, promote high-quality work, and serve as the marketing advisor-ally with the broad-based information and knowledge that makes it possible for the wide variety of producers to exploit the best possible markets most directly.

In doing this, the Board provides business and personal professional advice, information, and promotion to Native American artists and craftsmen and their organizations and, as an integral part of its professional services, the Board operates a coordinated system of three regional museums, located in reservation areas. Through its activities, the Indian Arts and Crafts Board has been instrumental in helping numerous Native American enterprises, cultural organizations and institutions to develop and achieve self-sufficiency and the Board was one of the original advocates for the establishment of the Institute of American Indian Arts.

The Institute of American Indian Arts (IAIA) was created by the Secretary of the Interior in 1962. It was opened that year to 140 carefully recruited students in the 10th through 12th grades, and to a few post-high school studio students who took two post-secondary academic courses. Emphasis at that time was upon the secondary programs.

From the beginning, the Institute has been a progressive arts school which has encouraged its students to draw upon their cultural heritages while experimenting in such non-transitional areas as creative writing, performing arts, filmmaking photography, and new forms of painting. The purpose of this approach is summed up in the Institute's statement of philosophy:

"The underlying philosophy of the program is that unique cultural tradition can be honored and can be used creatively as the springboard to a meaningful contemporary life . . . The Institute holds that cultural differences are a rich wellspring from which may be drawn new creative forces relevant to contemporary conditions and environments. We believe that, ultimately, by learning to link the best in Indian culture to contemporary life, the young Indian will be able to solve his own problems and enrich the world scene in the process."

During its first five years, the work of the Institute's students attracted widespread attention throughout the Nation for its artistic validity and vitality in the fields of creative writing, fine arts, crafts, and performing arts. In 1967, the Institute embarked on an expansion of its professional training programs. The successful expansion was recognized by the Senate Committee on Labor and Public Welfare, which in a 1969 report recommended that the Institute be raised to the level of a four-year college and noted that the Institute had shown considerable success in instilling pride in Indian students by providing them with opportunities for creative expression. In recent years, the Institute has gained accreditation to grant the Associate of Fine Arts degree and, as an accredited institution, has the endorsement of the National Association of Schools of Art.

Institute graduates are establishing a record as practicing artists as they mature in their careers. Their works make up an invaluable collection of contemporary art in a variety of media which is housed in the IAIA Museum in Santa Fe. The collection is in great demand and is often on loan to other national and international institution. IAIA's position as a leader in minority cultural development was pointed out in the 1979 UNESCO Report, "Educating Artists, Craftsmen, Designers." In the report, IAIA was cited as one of seven outstanding arts education institutions in the world.

While we agree with the overall objectives of S. 792, we do not believe that those objectives would be accomplished by removing the present Institute and the Indian Arts and Crafts Board from the Department of the Interior. We believe that the Institute derives much of its artistic vigor from its association with the broader world of Indian affairs and that both it and the Board would suffer were they to be isolated from that world.

We are committed to the preservation of the Institute and to the achievement of its purposes. We believe that this preservation and achievement can best be assured through the resources available to

this Department. Toward that end a Departmental study is currently underway to evaluate the present status of the Institute and to recommend courses of action to assure that it continues to receive the attention, visibility, and support it deserves.

We note that "Native Hawaiians" would be eligible for the services of the proposed Institute. Hawaiians are not now served by the Bureau of Indian Affairs of the Department of the Interior. Without a requirement of blood quantum or criteria other than those given in section 3 of S. 792, a veritable flood-gate of persons claiming Hawaiian ancestry would be opened, thereby depriving Indians of the benefits proposed by the bill.

It should also be noted that, as an independent agency, the Institute of Native American Culture and Arts Development would have to employ its own policy, administrative, financial, and legal staff which would result in the inefficient and costly duplication of capabilities that already exist in the Department of the Interior.

For these reasons we are opposed to the enactment of S. 792.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

KEN SMITH,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 792, as amended.

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